Case 08-03423-ee Doc 206 Filed 12/02/09 Entered 12/02/09 18:13:10 Desc Main Document Page 1 of 8

## IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI JACKSON DIVISION

In re:	)		
WAREHOUSE 86, LLC	)	CASE NO.	08-03423-EE
Debtor	)	Chapter 11	
	)		

# DEBTOR'S MOTION TO COMPROMISE AND SETTLE DISPUTED CLAIMS WITH EMPLOYERS MUTUAL CASUALTY INSURANCE COMPANY

Warehouse 86, LLC, the Debtor and debtor-in-possession herein ("<u>Debtor</u>" or "<u>Warehouse 86</u>"), by and through its attorneys, files this Motion to Compromise and Settle Disputed Claims with Employers Mutual Casualty Insurance Company ("<u>EMC</u>"), and would show unto the Court the following:

#### Introduction

- 1. On November 4, 2008 (the "Petition Date"), Debtor filed its Voluntary Petition in this bankruptcy case (the "Bankruptcy Case") under Chapter 11 of the Title 11 United States Code (the "Bankruptcy Code"). Pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code, Debtor is continuing to manage its assets as Debtor in possession. No trustee or examiner has been appointed in this Bankruptcy Case.
- 2. An Official Committee of Unsecured Creditors (the "Committee") was appointed in this Bankruptcy Case on November 19, 2008 [Dkt. # 062].



checks made payable to Debtor and SCK, as evidenced by collective Exhibit "B" hereto, as follows:

		Check	
Date	Payees	Number	Amount
07/23/2009	Warehouse 86, LLC and SC Kiosks, Inc.	H03305822	\$1,060,000.00
08/12/2009	Warehouse 86, LLC and SC Kiosks, Inc.	H03306059	\$979,882.35
08/12/2009	Warehouse 86, LLC and SC Kiosks, Inc.	H03306060	\$50,000.00
07/22/2009	Warehouse 86, LLC	H03305808	\$10,000.00
Total			\$2,099,882.35

- 12. Of the Insurance Proceeds represented by Check Number H03305822 for the fire loss, the subcategories and sub-policy limits under which the payments were made were as follows:
  - (A) \$1,000,000.00 payments for personal property losses (policy limits);
  - (B) \$50,000 payments of the sublimits for Business Income loss and Extra Expenses (sub-policy limits); and
  - (C) \$10,000.00 payment for debris removal (sub-policy limits).
- 13. Of the Insurance Proceeds represented by Check Numbers H03306059 and H03306060 for the tornado loss, the subcategories and sub-policy limits under which the payments were made were as follows:
  - (A) \$979,882.35 payments for all personal property losses (check number H03306059); and
  - (B) \$50,000 payment of the sublimit for Business Income loss (check number H033060600
- 14. The Insurance Proceeds described in paragraphs 12 and 13 above have been endorsed by both the Debtor and SCK and were deposited into the registry of the Court on August 26, 2009 pending determination by the Court of the extent to which each party is entitled to those funds. See Order Approving Joint Motion of Warehouse 86 LLC and SCK, Inc f/k/a

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FEMC Insurance Companies

SSUED AT

PO BOX 6011 RIDGELAND MS 39158-6011

ISSUED

PAYEE

Warehouse 86 LLC and SC Kiosks, Inc.

\$1,060,000.00

(NON-NEGOTIABLE)

PAYMENT =OR

Business Income loss-\$50,000, \$1,000,000 policy limit on business personal property and \$10,000 debris removal

SENT TO

DODD9 BUTLER SNOW ATTN STEVE ROSENBLATT PO BOX 22567 JACKSON MS 39225-2567

CLAIM POLICY AGENT INSURED APPROVED HF80-Z00479887 Loss 02/11/09 3A22278 from 04/15/07 to 04/15/08 AH-9333 MARCHETTI ROBERTSON & BRICKE Warehouse 86 LLC W86 Proper CHUCK-H

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**EMCInsurance Companies** 

ISSUED AT

PO BOX 6011 RIDGELAND MS 39158-6011

ISSUED

H03306059 08/12/09 CM

PAYEE

Warehouse 86 LLC and SC Kiosks, Inc.

\$\*\*979,882.35

(NON-NEGOTIABLE)

**PAYMENT** FOR

Any and all claims for business personal property

SENT .

TO

00007 BUTLER SNOW PO BOX 22567 STEVE ROSENBLATT JACKSON MS 39225-2567

CLAIM POLICY AGENT INSURED APPROVED HF80-Z00478316 Loss 02/05/08 3A22278 from 04/15/07 to 04/15/08 AH-9333 MARCHETTI ROBERTSON & BRICKE Warehouse 86 LLC W86 Proper CHARLES-B

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**EMCInsurance** Companies

ISSUED AT

PO BOX GOLL RIDGELAND MS 39158-6011

ISSUED

H03306060 08/12/09 CM

PAYEE

Warehouse 86 LLC and SC Kiosks, Inc.

\$\*\*\*50,000.00

(NON-NEGOTIABLE)

PAYMENT FOR

Any and All claims pertaining to business interruption

SENT ,

TO

OOOOB BUTLER SNOW PO BOX 22567 STEVE ROSENBLATT JACKSON NS 39225-2567

CLAIM POLICY AGENT INSURED **APPROVED**  HF80-Z00478316 3A22278 from AH-9333 MARC 8316 Loss 02/05/08 from 04/15/07 to 04/15/08 MARCHETTI ROBERTSON & BRICKE Warehouse CYNTHIA-M 86 LLC WB6 Proper

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**EMCInsurance Companies** 

ISSUED AT .

PO BOX 6011 RIDGELAND MS 39158-6011

ISSUED

H03305808 07/22/09 JJ

PAYEE

Warehouse 86 LLC

\$\*\*\*10,000.00

(NON-NEGOTIABLE)

PAYMENT FOR

Property of others

SENT TO

DDD13 BUTLER SNOW ATTN STEVE ROSENBLATT PO BOX 22567 JACKSON MS 39225-2567

CLAIM POLICY AGENT INSURED **APPROVED**  HF80-Z00479887 Loss 02/11/08 3A22278 from 04/15/07 to 04/15/08 AH-9333 MARCHETTI ROBERTSOM & BRICKE Warehouse 86 LLC W85 Proper JIM-J

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